

HOUSE BILL REPORT

HB 1361

As Passed House:

March 4, 2013

Title: An act relating to the purchase of care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order.

Brief Description: Modifying the requirements for purchase of care for Indian children.

Sponsors: Representatives Kagi, Ryu, McCoy, Walsh, Sawyer and Tharinger; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 2/7/13, 2/13/13 [DP].

Floor Activity:

Passed House: 3/4/13, 93-5.

Brief Summary of Bill

- Authorizes the Department of Social and Health Services to purchase child welfare care for an Indian child from a federally recognized tribe or tribally licensed child-placing agency.
- Exempts the purchase of care for an Indian child in the custody of a tribe or tribally licensed child-placing agency from performance-based contracting requirements.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 9 members: Representatives McCoy, Chair; Appleton, Vice Chair; Angel, Ranking Minority Member; Johnson, Assistant Ranking Minority Member; Haler, Pike, Ryu, Santos and Sawyer.

Staff: Sean Flynn (786-7124).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Child Welfare Services.

The Department of Social and Health Services (Department) provides welfare services for the protection and care of runaway, dependent, and neglected children. The Department may accept custody of children from parents and from juvenile courts to provide child welfare services. The services provided include the physical care and the routine medical, dental, mental health, and emergency care of the child.

The Department must develop and administer a comprehensive plan for the delivery of child welfare services. The plan includes recruiting an adequate number of foster care and prospective adoption homes for placement of children in need of care. The Department must monitor placements to ensure the safety and well-being of children and quality of care provided.

The Department may contract with a supervising agency to provide child welfare services. Tribes have the authority to license agencies located on the reservation to provide care or arrange for the placement of children for foster care and adoption. The Department or supervising agency may place children in tribally licensed facilities.

The Department or supervising agency can purchase care for children, including an Indian child who is in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency, pursuant to parental consent, or a tribal or state court order.

Performance-Based Contracts.

Performance-based contracting is a new methodology being implemented by the Department in its contracting for child welfare services. The methodology links payment for services to the contractor's performance. The performance measures should relate to the successful engagement by the child or parent in the services provided and improvement in the condition addressed.

Under a newly enacted statutory scheme, beginning December 1, 2013, the Department must enter into performance-based contracts with one or more network administrators for family support and related services. At the same time, the Department must stop renewing its current contracts with child welfare service providers that provide services in the geographic areas covered by a network administrator.

The network administrator contracts directly with service providers within its geographic service area. The network administrator must use performance-based payment methodologies in contracting. The Department caseworker maintains the responsibility for identifying and coordinating services needed by the child or family, but must select available service providers from within the network administrator's provider network.

The Department's contracts with network administrators must provide an opportunity for tribal governments to contract for service delivery through network administrators. Network administrators must comply with intergovernmental agreements between the state and tribal governments and the state and federal Indian Child Welfare Act.

Indian Child Welfare Act.

The federal Indian Child Welfare Act (ICWA), enacted in 1978, is a comprehensive law governing the removal of Indian children from their families and placement of such children in foster care or adoptive homes. In 2011 the state enacted its own ICWA, which is substantially similar to the federal law. Under both the federal and state ICWA, tribes have exclusive jurisdiction over any child custody proceeding involving an Indian child living within the reservation of that tribe. Upon meeting certain conditions, state courts must transfer any proceeding for foster care placement or termination of parental rights of an Indian child not living on the reservation to tribal court.

The state and federal ICWA establish placement priorities for Indian children subject to foster care or adoptive placements. The priority placement preference follows in order of priority: the child's extended family; a foster home licensed or approved by the child's tribe or by a non-Indian authority; or an institution with a program suitable for an Indian child's needs. The Indian child's tribe may establish a different order of preference for placement. The ICWA authorizes states and tribes to enter into agreements for the care and custody of Indian children.

Summary of Bill:

The Department or supervising agency may purchase child welfare care for an Indian child directly from a federally recognized tribe or tribally licensed child-placing agency. The purchase of care for an Indian child in the custody of a federal recognized tribe or tribally licensed child-placing agency is exempt from performance-based contracting requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2 relating to the purchase of care for Indian children, which takes effect December 1, 2013, after section 1 expires.

Staff Summary of Public Testimony:

(In support) The Department has over 1,600 contracts with providers out in the community that provide services identified for children in the welfare system. House Bill 2264, passed in 2012, is setting up a new way for the Department to manage quality assurance in contracts through the network administrators. Network administrators are corporate or nonprofit entities, not governments. It is not appropriate to require tribes to contract with nongovernmental network administrators. This is an administrative fix to last year's bill. It provides the Department to continue with government-to-government relations with the 29 federally recognized tribes. Under the Department contract consolidation process, tribes would submit the proposed services they would provide and the Department would refer a child from that tribe to the tribal services identified.

(Opposed) None.

Persons Testifying: Representative Kagi, prime sponsor; and Colleen Cawston, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.